



November 1, 1999

Mr. Steven D. Monté  
Assistant City Attorney  
Criminal Law and Police Division  
City of Dallas  
2014 Main Street, Room 206  
Dallas, Texas 75201

OR99-3074

Dear Mr. Monté:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 130564.

The City of Dallas Police Department (the “department”) received a request for all the arrest and incident records of certain individuals, as well as call sheets for listed addresses. Your letter indicates that you have already released the information requested relating to the listed addresses; however, you claim that the remaining requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the representative sample of documents submitted.<sup>1</sup>

The Public Information Act imposes a duty on governmental bodies seeking an open records decision pursuant to section 552.301 of the Government Code to submit that request to the attorney general within ten business days after the governmental body’s receipt of the request for information. The time limitation found in section 552.301 is an express legislative recognition of the importance of having public information produced in a timely fashion. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ). When a request for an open records decision is not made within the time period prescribed by section 552.301, the requested information is presumed to be public. *See* Gov’t Code § 552.302. This presumption of openness can only be overcome by a compelling demonstration that the information should not be made public. *See, e.g.*, Open Records

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<sup>1</sup>In reaching our conclusion here, we assume that the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Decision No. 150 (1977) (presumption of openness overcome by a showing that the information is made confidential by another source of law or affects third party interests).

The department received the request for information on September 29, 1999. You did not seek a decision from this office until October 19, 1999. Consequently, you have not met your statutory burden under section 552.301, and the requested information is therefore presumed public. In the absence of a demonstration that the requested information is confidential by law or that other compelling reasons exist as to why the information should not be made public, you must release the information. Open Records Decision No. 195 (1978). *See also* Gov't Code § 552.352 (the distribution of confidential information is a criminal offense). However, you assert that section 552.101 requires withholding the information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Where an individual's criminal history information has been compiled by a governmental entity, the information takes on a character that implicates the individual's right to privacy. *See United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989). In this instance, the requestor asks for all the criminal records of two named individuals. We believe that these individuals' right to privacy has been implicated. Thus, to the extent that the department has records in which the named individuals are possible suspects, we conclude that the department must withhold this information under section 552.101 of the Government Code. *See id.*; *see also* Gov't Code § 411.106(b).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Sincerely,



Patricia Michels Anderson  
Assistant Attorney General  
Open Records Division

PMA/jc

Ref: ID# 130564

Encl. Submitted documents

cc: Mr. Rick Lambert  
Accuracy , Incorporated  
P. O. Box 1688  
Lindale, Texas 75771  
(w/o enclosures)